

ORIGINAL

Decision No. 52221

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

V. M. MUZQUIZ,

Complainant

vs.

Case No. 5668

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

V. M. MUZQUIZ in propria persona.

Pillsbury, Madison & Sutro, and Lawler, Felix
& Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint, filed on August 1, 1955, alleges that V. M. Muzquiz of 6015 $\frac{1}{2}$ Atlantic Boulevard, Apartment 6, Maywood, California, prior to January 15, 1955, was a subscriber and user of telephone service furnished by defendant at that address under number Jefferson 7598; that on or about January 15, 1955, the telephone facilities were disconnected and were disconnected at the time the complaint was filed; that complainant has demanded of the defendant that it restore the telephone facilities but the demand has been refused; that the complainant has suffered, and will suffer, irreparable injury and great hardship as a result of being deprived of said telephone facilities; and that complainant did not use and does not intend to use said telephone facilities as an instrument to violate the law.

On August 16, 1955, by Decision No. 51843 in Case No. 5668, this Commission issued an order granting temporary interim relief, directing the telephone company to restore service pending a hearing on the matter.

On August 25, 1955, the telephone company filed an answer, the principal allegation of which was that the telephone company pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) had reasonable cause to believe that the telephone service furnished to complainant under number Jefferson 7598 at 6015 $\frac{1}{2}$, Apartment 6, South Atlantic Boulevard, Maywood, California, was being, or was to be, used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law.

A public hearing was held in Los Angeles on October 21, 1955, before Examiner Kent C. Rogers.

The complainant testified that on or about Saturday, January 15, 1955, he, his wife and two other couples were at complainant's home; that the visitors arrived about noon; that about 4 p.m. three officers in civilian clothes entered the residence without knocking; that they ordered everyone to stay where they were; that on several occasions the officers asked the complainant if he was running a bookmaking establishment and he said he was not; that the officers were in the apartment about two hours; that the telephone rang three or four times during that period and the officers answered it; that the officers removed the telephone and took the complainant and his wife to jail; and that subsequently the charges were dismissed. The complainant further testified that he travels, and his wife is alone and needs a telephone. On

cross examination the complainant testified that when the officers came he did not observe what his wife did; that there was a telephone in the bedroom and an extension in the hall; and that when the officers arrived there was a piece of plastic tile in the house.

A deputy sheriff, attached to the vice detail of the Los Angeles County Sheriff's Office, testified that at 4:10 p.m. on January 8, 1955, he and two other deputies went to complainant's house; that they knocked at the door and were admitted by complainant; that he saw Mrs. Muzquiz running into the rear of the house; that he pursued her and saw her pick up and wipe a square of tile next to the telephone; and that he noticed some notations thereon prior to the time she wiped the tile. He further testified that he remained on the premises for about one hour; that the telephone rang on six occasions; that on three occasions the caller hung up when he answered the telephone but that on three occasions he was given bets on races being run that day at horse-race tracks in California; and that he found no other racing paraphernalia. The officer said that the complainant denied engaging in bookmaking and that Mrs. Muzquiz denied she knew what he was talking about, but refused to answer questions concerning bets. He said the telephones were removed and the complainant and his wife were taken to jail and charged with suspicion of bookmaking. Subsequently, he said, the parties were released without a complaint having been filed because of lack of evidence. The witness stated that in his opinion the place was a relay spot, that is, a place where bets are received and written down and then relayed to other parties.

A supervising special agent for the telephone company presented Exhibit No. 1 which is a letter from the Los Angeles County Sheriff's Office to the telephone company requesting that the facilities in question be disconnected. The witness stated that pursuant to said request the facilities were disconnected on January 11, 1955. The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After consideration of this record, we now find that the telephone company's action was based upon reasonable cause, as such term is used in Decision No. 411415, referred to supra. We further find that the telephone facilities in question were used for book-making purposes.

O R D E R

The complaint of V. M. Muzquiz against The Pacific Telephone and Telegraph Company having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied and that the said complaint be and it hereby is dismissed. The temporary interim relief granted by Decision No. 51843 in Case No. 5668 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein

may file an application for telephone service, and if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 6015 1/2 Atlantic Boulevard, Apartment 6, Maywood, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California,
this 14th day of December, 1955.

John E. Maxwell President
Justin D. Adams
Paul L. Interim
Michael J. Dooly
R. Hardy Commissioners